



# **Durham Safeguarding Adults Partnership**

## Good Practice Toolkit

Collaborative Working and Information  
Sharing between Professionals to protect  
Adults.

Revised and agreed March 2023

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Print and distribute

## **ONE KEY MESSAGE:**

Print and distribute

### **THINK BEFORE YOU SHARE - IF IN DOUBT ASK**

- ➔ Have you checked the recommended processes in your organisation's guidance and this document? ←
- ➔ Have you used a level of security appropriate to the information you're about to share? ←
- ➔ Have you asked your line manager or your organisation's Data Protection Officer for advice? ←

#### **Myth-busting (adapted from [Information sharing advice for safeguarding practitioners](#))**

Sharing of information between practitioners and organisations is essential for effective risk identification, assessment and management, and service provision. Fears about sharing information cannot be allowed to stand in the way of the need to safeguard and promote the welfare of adults at risk of abuse or neglect. Below are common myths that can act as a barrier to sharing information effectively.

Consent is always needed to share personal information?

**No – you do not always need consent to share personal information.**

**Sharing for the purpose of safeguarding adults is different to, for example, seeking consent to provide a service. Refer to the flowchart (page 6) to support decisions to share.**

The UK GDPR and Data Protection Act 2018 are barriers to sharing information?

**No – UK GDPR and Data Protection Act 2018 do not prohibit the collection and sharing of personal information.**

**They provide a framework to ensure that personal information is shared appropriately.**

**The Data Protection Act 2018 balances the rights of the information subject (the individual whom the information is about) and the possible need to share information about them.**

**You should always keep a record of what you have shared or not shared and the reasons for either.**

## More Myth-busting

(adapted from [Information sharing advice for safeguarding practitioners](#))

Personal information collected by one organisation cannot be disclosed to another organisation for safeguarding purposes?

**No - this is not the case**

Practitioners looking to share information should consider which processing condition in the Data Protection Act 2018 is most appropriate for use in the particular circumstances of the case. This may be the safeguarding processing condition or another relevant provision (please refer to the DSAP Information Sharing Agreement).

The common law duty of confidence and the Human Rights Act 1998 prevent the sharing of personal information?

**No - this is not the case**

In addition to the UK GDPR and Data Protection Act 2018, practitioners need to balance the common law duty of confidence, and the rights within the Human Rights Act 1998, against the effect on children, individuals at risk, or others, if they do not share the information.

If information collection and sharing is to take place with the consent of the individuals involved, providing they are clearly informed about the purpose of the sharing, there should be no breach of confidentiality or breach of the Human Rights Act 1998. If the information is confidential and the consent of the information subject is not gained, then it must be in the subject's interests, or someone else's interests, for this information to be disclosed. For the purpose of safeguarding it is more likely that the public interest test would justify disclosure of the information (or that sharing is required by a court order or other legal obligation, otherwise practitioners need to decide whether there are grounds to share the information without consent. This can be because it is overwhelmingly in the DPA information sharing statutory exemption). If you have any queries contact your organisation's relevant officer.

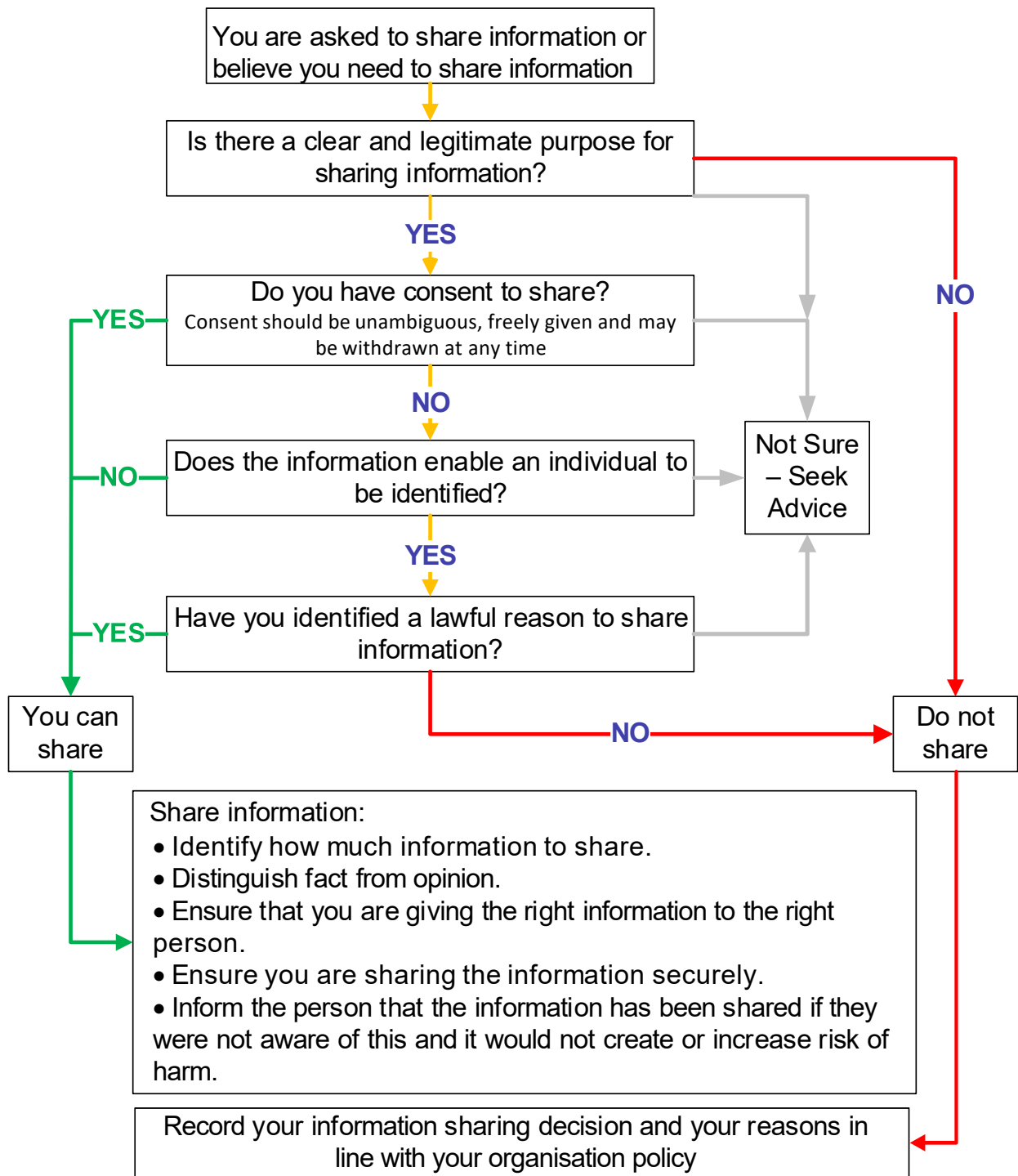
# 8 Golden Rules

1. Remember that the UK General Data Protection Regulation (GDPR), Data Protection Act 2018, Data Sharing Code of Practice and human rights law are not barriers to justified information sharing but provide a framework to ensure that personal information about living individuals is shared appropriately.
2. Be open and honest with the individual (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
3. Seek advice from other practitioners, or your information governance lead, if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible.
4. Where possible, share information with consent, and where possible, respect the wishes of those who do not consent to having their information shared. Under the UK GDPR and Data Protection Act 2018 you may share information without consent if, in your judgement, there is a lawful basis to do so, such as where safety may be at risk. You will need to base your judgement on the facts of the case. When you are sharing or requesting personal information from someone, be clear of the basis upon which you are doing so. Where you do not have consent, be mindful that an individual might not expect information to be shared.
5. Consider safety and well-being: base your information sharing decisions on considerations of the safety and well-being of the individual and others who may be affected by their actions.
6. Necessary, proportionate, relevant, adequate, accurate, timely and secure: ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those individuals who need to have it, is accurate and up to date, is shared in a timely fashion, and is shared securely (see principles).
7. Keep a record of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

And always remember that:

**8. Adoption of professional curiosity can help to prevent risk. If there are concerns that a child or an adult may be at risk of serious harm, then it is your duty to follow the relevant procedures without delay. Seek advice if you are not sure what to do at any stage and ensure that the outcome of the discussion is recorded.**

## Flowchart of when and how to share information



If there are concerns that a child is in need, suffering harm or likely to suffer harm or that adult with care and support needs is at risk of or experiencing abuse, follow the relevant procedure without delay. Seek advice if unsure what to do at any stage and ensure that the outcome of the discussion is recorded.

Note: Flowchart adapted from [HM Government \(2018\) Information sharing. Advice for practitioners providing safeguarding services to children, young people, parents and carers](#)

## Is it necessary and proportionate?

When taking decisions about what information to share, you should consider if the information you need to release is:

### Relevant

Only information that is relevant to the purpose should be shared with those who need it. This allows others to do their job effectively and make informed decisions.

### Adequate

Information should be adequate for its purpose. Information should be of the right quality to ensure that it can be understood and relied upon.

### Secure

Wherever possible, information should be shared in an appropriate, secure way. Practitioners must always follow their organisation's policy on security for handling personal information.

### Accurate

Information should be accurate, up-to-date, and should clearly distinguish between fact and opinion. If the information is historical then this should be explained.

### Timely

Information should be shared in a timely fashion to reduce the risk of missed opportunities to offer support and protection to an adult. Timeliness is key in emergency situations, and it may not be appropriate to seek consent for information sharing if it could cause delays and therefore place an adult at increased risk of harm. Practitioners should ensure that sufficient information is shared, as well as consider the urgency with which to share it.

### Recorded

Information sharing decisions should be recorded, whether or not the decision is taken to share. If the decision is to share, reasons should be cited including what information has been shared and with whom, in line with organisational procedures. If the decision is not to share, it is good practice to record the reasons for this decision and discuss them with the requester. In line with each organisation's own retention policy, the information should not be kept any longer than is necessary. In some rare circumstances, this may be indefinitely, but if this is the case, there should be a review process scheduled at regular intervals to ensure data is not retained where it is unnecessary to do so.

[Enter your organisation's quick contact reference information here:](#)

<b>Data Protection Officer:</b>	NAME	Tel.	Email:
<b>Caldicott Guardian:</b>	NAME	Tel.	Email:
<b>Named Safeguarding Lead:</b>	NAME	Tel.	Email:
<b>DSAP Board Member:</b>	NAME	Tel.	Email:

## Introduction

This Toolkit is produced by Durham Safeguarding Adults Partnership to provide information and practical support for the wider workforce and stakeholders in implementing the Durham Safeguarding Adults Partnership [Information Sharing Agreement](#).

## Durham Safeguarding Adults Partnership

Durham Safeguarding Adults Partnership (DSAP) is the Safeguarding Adults Board (SAB) as set out in the Care Act 2014, made up of a wide range of organisations with an Independent Chair.

### Statutory Partners

- Durham County Council (DCC)
- NHS North East and North Cumbria Integrated Care Board (NENC ICB, formerly NHS Clinical Commissioning Group)
- Durham Constabulary.

### Other relevant partners and agencies (not exhaustive):

- Care Quality Commission (CQC)
- County Durham and Darlington Fire and Rescue Service (CDDFRS)
- County Durham and Darlington NHS Foundation Trust (CDDFT)
- Department of Work and Pensions (DWP)
- Durham Community Action (DCA)
- Durham Safeguarding Adults Partnership
- Healthwatch
- His Majesty's Prison and Probation Service (HMP and YOI Deerbolt, HMP Durham, HMP Frankland, HMP Low Newton)
- HMPPS County Durham and Darlington Probation Service North East
- NHS England (via a Memorandum of Understanding (MoU) with NHS NENC ICB)
- North East Ambulance Service NHS Foundation Trust (via a MoU with NHS NENC ICB)
- Tees, Esk and Wear Valleys NHS Foundation Trust (TEWV)
- The Local Authority Adult and Health Services
- The Local Authority Director of Children and Young People's Services
- The Local Authority Director of Public Health
- The Local Authority Housing Solutions
- The Local Authority Legal Services (as appropriate).

DSAP has strong links with other partnerships such as:

- Durham Safeguarding Children Partnership
- Safe Durham Partnership.

To find out more about Durham Safeguarding Adults Partnership visit:

<http://www.safeguardingdurhamadults.info/>



## Information sharing agreements

Durham Safeguarding Adults Partnership sits within Adult and Health Services in Durham County Council (DCC) but is an information controller in its own right.

It is essential that collaborative working and good information sharing is established and embedded throughout organisations, at all levels, and implemented through effective practice through a diverse range of practitioners.

Information sharing agreements are a means to facilitate the lawful and secure sharing of information between partnerships, providers, and wider stakeholders.

**DSAP has an overarching Information Sharing Agreement which outlines its commitment:**

- To promoting the wellbeing and protection of adults who have needs for care and support.
- To work cohesively and collaboratively with a range of agencies and partners to prevent and protect adults from abuse and neglect.
- To monitor and analyse local information to learn from themes and support a preventative agenda.
- To communicate and share information with all relevant agencies under the umbrella of safeguarding to help to ensure adults and carers are safe.
- To monitor its working arrangements, challenge appropriately and scrutinise its arrangements through a range of relevant forums.

It extends to all professionals, staff and volunteers, and a shared responsibility.

### When is sharing information not 'data sharing'?

Sharing information within the same organisation, for example within an NHS Foundation Trust, or between DCC Adult and Health Services and DCC Children and Young People's Services, is not data sharing under the Data Protection Act 1998 and the Data Sharing Code of Practice.

"The movement of data by one part of an organisation to another part - by the controller to itself - is not data sharing. The other obligations under data protection law obviously still apply, however." [Data sharing: a code of practice | ICO](#)

## Your responsibilities

Familiarise and adhere to your own organisation's procedures and guidelines.



**Practice Point:** Practitioners should also familiarise themselves with wider information sharing agreements for example, the Safe Durham Partnership's Community Safety Information Sharing Protocol when the Prevent duty applies.

[About Us \(countydurhampartnership.co.uk\)](https://www.countydurhampartnership.co.uk)

[Prevent Strategy: Countering Terrorism, Radicalisation and Violent Extremism \(countydurhampartnership.co.uk\)](https://www.countydurhampartnership.co.uk)

# Legislation

**A range of key legislation and guidance is drawn upon when sharing information:**

- The Care Act 2014
- Care and Support Statutory Guidance
- Data Protection Act 2018 (DPA 2018)
- UK General Data Protection Regulations (UK GDPR)
- Information Commissioner's Office (ICO) Data Sharing Code of Practice
- The Human Rights Act 1998
- The Common Law Duty of Confidence
- Crime and Disorder Act 1998
- Criminal Justice Act 2003
- Mental Capacity Act 2005
- Mental Capacity (Amendment) Act 2019
- Criminal Procedures and Investigations Act 1996

Other wider legislation includes:

- Crime and Disorder Act 1998
- Freedom of Information Act 2000
- Police and Justice Act 2006
- Safeguarding Vulnerable Groups Act 2006
- The Equality Act 2010
- Protection of Freedoms Act 2012
- The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2015
- Counter-Terrorism and Security Act 2015 (Section 26 – Prevent Duty)
- Modern Slavery Act 2015
- Mental Health Act 1983
- Mental Health Act 2007
- Common Law Duty of Care.

# Information Sharing and Safeguarding Adults

## Key Practice Points:



**Sections 6 and 7 of the Care Act 2014** set out when local authorities and relevant partners must work cooperatively with each other; when local authorities must cooperate with other appropriate people or bodies; and that local authority officers from different services in the same authority must work cooperatively. Examples would include in safeguarding enquiries and in other care and support services (more below).



**Section 45 of the Care Act 2014** outlines that Safeguarding Adults Boards in exercising their functions can request a person to supply information to it, or some other person specified in the request, the person to whom the request is made must comply with the request if particular conditions are met. For example, when requesting information for Safeguarding Adult Reviews, or multi-agency audit.



**Duty of Candour** - This means operating with openness and transparency and apologising for harm caused regardless of fault. It applies to all providers regulated by the Care Quality Commission (CQC). When reports are made by staff, people accessing services or the public that relate to this duty, CQC will refer to their safeguarding and whistleblowing protocols where relevant and appropriate. Further information is available from the [CQC website](#).



**Common law duty of care** - A common law duty of care to protect the public exists for the Police who may share personal data where it is necessary to prevent harm.



**Common law duty of confidence** - When anyone wishing to disclose information that is not in a public domain but obtained where it gives rise to a duty of confidence. It will need to be established whether there is an overriding justification for disclosing that information. If not, it is necessary to obtain the informed consent of the person who supplied the information. This will need to be assessed on a case-by-case basis and legal advice should be sought in any case of doubt (see also DSAP Information Sharing Agreement).

## Information sharing and consent

Durham Safeguarding Adults Partnership recognises the importance of sharing relevant and proportionate information to safeguard adults. Information and personal data may be written, held electronically or on paper, given during multi-agency meetings both face to face and online, and shared over the phone.

Sometimes practitioners can lack confidence about when they should share information and whether they need consent to do so.

The Data Protection Act 2018 includes processing conditions for sensitive and personal data (known as 'special category data') for the safeguarding of children and for adults at risk. This means practitioners and professionals in all organisations can share information in these circumstances **without consent**.



**Practice Point:** “Most data sharing does not rely on consent as the lawful basis.

If you cannot offer a genuine choice, consent is not appropriate. Public authorities, employers, and other organisations in a position of power over individuals should avoid relying on consent unless they are confident they can demonstrate it is freely given.” [About this code | ICO](#)

“The UK GDPR and Data Protection Act 2018 do not prevent, or limit, the sharing of information for the purposes of keeping...people safe. To effectively share information:

- all practitioners should be confident of the processing conditions, which allow them to store, and share, the information that they need to carry out their safeguarding role. Information which is relevant to safeguarding will often be data which is considered 'special category personal data' meaning it is sensitive and personal.
- where practitioners need to share special category personal data, they should be aware that the Data Protection Act 2018 includes 'safeguarding of children and individuals at risk' as a condition that allows practitioners to share information without consent.
- information can be shared legally without consent, if a practitioner is unable to, or cannot be reasonably expected to gain consent from the individual, or if to gain consent could place the individual at risk.
- relevant personal information can be shared lawfully if it is to keep a child or individual at risk safe from neglect or physical, emotional, or mental harm, or if it is protecting their physical, mental, or emotional well-being.”

[Information sharing: advice for practitioners \(publishing.service.gov.uk\)](#)



**Practice Point:** “Adults have a general right to independence, choice and self-determination including control over information about themselves. In the context of adult safeguarding these rights can be overridden in certain circumstances”.

“the DPA 2018 does not prevent you from sharing personal data where it is appropriate to do so.”

[Data sharing in an urgent situation or in an emergency | ICO](#)

“If the information is confidential, but there is a safeguarding concern, sharing it may be justified”

Full extract: [Social Care Institute for Excellence, SCIE \(2019\) Safeguarding Adults – Sharing Information](#)

## What should you do?

**Check the Caldicott Principles (next)**

**Check the 8 Golden Rules**

**Check your organisation's guidance**

## The Caldicott Principles (revised 2020)

1

### Justify the purpose(s) for using confidential information

Every proposed use or transfer of confidential information should be clearly defined, scrutinised, and documented, with continuing uses regularly reviewed by an appropriate guardian.

2

### Use confidential information only when it is necessary

Confidential information should not be included unless it is essential for the specified purpose(s) for which the information is used or accessed. The need to identify individuals should be considered at each stage of satisfying the purpose(s) and alternatives used where possible.

3

### Use the minimum necessary confidential information

Where use of confidential information is considered to be necessary, each item of information must be justified so that only the minimum amount of confidential information is included as necessary for a given function.

4

### Access to confidential information should be on a strict need-to-know basis

Only those who need access to confidential information should have access to it, and then only to the items that they need to see. This may mean introducing access controls or splitting information flows where one flow is used for several purposes.

5

### Everyone with access to confidential information should be aware of their responsibilities

Action should be taken to ensure that all those handling confidential information understand their responsibilities and obligations to respect the confidentiality of patients and service users.

6

### Comply with the law

Every use of personal confidential data must be lawful. All those handling personal confidential data are responsible for ensuring that their use of and access to that information complies with legal requirements set out in common statute and under the common law.

7

### The duty to share information for individual care is as important as the duty to protect patient confidentiality

Health and social care professionals should have the confidence to share information in the best interests of patients and service users within the framework set out by these principles. They should be supported by the policies of their employers, regulators, and professional bodies.

8

### Inform patients and service users about how their confidential information is used

A range of steps should be taken to ensure no surprises for patients and service users, so they can have clear expectations about how and why their confidential information is used, and what choices they have about this. These steps will vary depending on the use: as a minimum, this should include providing accessible, relevant and appropriate information - in some cases, greater engagement will be required.

# Collaborative working

## Duty of care

Statutory organisations and all those they employ have a professional duty of care towards people they come into contact with, to ensure they are not harmed by that contact. This is enshrined in both legislation and in professional and ethical codes of conduct and reinforced by government guidance. In tandem with this is the requirement that service providers work together at all levels to ensure that duty of care obligations are fulfilled.



**Practice Point:** A professional duty of care encompasses both adults and children who are at risk of harm or abuse, and also at risk of their welfare being adversely affected without the provision of services. (8 Golden Rules – Rule 8, Professional Curiosity).

All practitioners and managers involved with service provision need to be mindful of their professional responsibility to ensure that if they are made aware of, or they identify an adult or child who appears to require services that they cannot provide, then they take the appropriate action to initiate an assessment for service. This is irrespective of whether or not the adult or child concerned is the person to whom they are providing a service.

## Working with adults where children may be involved

The public and government expect agencies and services to share information to protect adults and children and trust professionals to do the right thing. In some cases this is a professional judgement call for those involved, commonly referred to as making a proportionate response.

- When working with adults, practitioners must find out if there are children in the individual's home/network who may need support or may be at risk
- If there is, a referral to First Contact for additional early help support or safeguarding children must be made. Adults' services and children's services must work together to consider risk and cumulative harm.
- Child protection risk assessment is a continuous, dynamic process. Risk can change quickly, sometimes daily and because of this different agencies or services will have information which, if shared, may escalate, or reduce risk.
- All have a responsibility to ensure the welfare of the child is paramount.

Durham Safeguarding Children Partnership procedures  
<https://www.workingtogetheronline.co.uk/chapters/intro.html>

# Working Cooperatively under the Care Act duties

Sections 6 and 7 of the Care Act 2014 set out:



- when local authorities and relevant partners must work cooperatively with each other;
- when local authorities must cooperate with other appropriate people or bodies; and
- that local authority officers from different services in the same authority must work cooperatively.

Section 45 of the Care Act 2014 sets out when partners must share information and work cooperatively with a Safeguarding Adults Board.

## Cooperating generally and in specific cases

- Local authorities and relevant partners\* can request cooperation and must cooperate with each other when exercising their functions for adults with needs for care and support and for carers (including carers of a child and young carers).
- A local authority must cooperate with others it considers appropriate who are working with adults with needs for care and support and carers such as:
  - service providers meeting adults' care and support needs or carers' needs;
  - primary care [GPs practices, opticians, dentists, pharmacists];
  - private registered providers of social housing;
  - non-health service hospitals outside the National Health Service Act 2006.
- Local authorities must have arrangements for officers who must cooperate with each other, such as those in Adult and Health Services, Housing, Children and Young People's Services, and Public Health. The arrangements should also apply to education, planning and transport.

The duties to work cooperatively have five purposes:

- promoting wellbeing of adults with needs for care and support and of their carers (promoting wellbeing includes "protection from abuse and neglect");
- improving quality of care and support;
- during transition from children's services to Care Act provisions;
- protecting adults with needs for care and support who are experiencing, or are at risk of, abuse or neglect;
- identifying lessons to be learned from past cases where adults with needs for care and support have experienced serious abuse or neglect and applying those lessons to future cases.

Care Act section 6 (6)

Examples of specific cases would include:

- working cooperatively in safeguarding adults enquiries;
- transition from children's to adult services;
- assessment for NHS continuing care, and;
- an adult moving to another area.

\*The relevant partners of Durham County Council are:

- County Durham and Darlington NHS Foundation Trust (CDDFT)
- Department of Work and Pensions (DWP)
- Durham Constabulary
- His Majesty's Prison and Probation Service (HMPPS) - County Durham and Darlington North East Probation Service
- His Majesty's Prison Service (HMYOI Deerbolt, HMP Durham, HMP Frankland, HMP Low Newton)
- NHS England (NHSE)
- North East Ambulance Service NHS Foundation Trust (NEAS) and via a Memorandum of Understanding
- NHS North East and North Cumbria Integrated Care Board (formerly NHS Clinical Commissioning Group)
- Tees, Esk and Wear Valleys NHS Foundation Trust (TEWV)

### **Sharing information and working cooperatively with Durham Safeguarding Adults Partnership**

The objective of a Safeguarding Adults Board (SAB) is to help and protect an adult in its area who:

- has needs for care and support (whether or not the authority is meeting any of those needs),
- is experiencing, or is at risk of, abuse or neglect, and
- as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

A SAB does this by co-ordinating and ensuring the effectiveness of what each of its members does.

A SAB also arranges Safeguarding Adult Reviews (SARs) and in this case each member of the SAB must co-operate in and contribute to the carrying out of a review.

### **The supply of information**



**Practice Point:** If Durham Safeguarding Adults Partnership (DSAP) requests information is given to it, or to another person, to enable it to carry out its functions, the person requested must comply with the request (provided certain conditions are met under section 45 of the Care Act).

Potential examples for a Safeguarding Adult Review:

- a GP who provided medical advice or treatment to the adult in respect of whom DSAP is carrying out the Safeguarding Adult Review, or to a family member or carer of that adult.
- a person carrying out voluntary work that brought him or her into contact with such an adult or with a family member or carer, or a minister of a church attended by such an adult or by a family member or carer.



## Working collaboratively in providing care and support services

The duty of care responsibility gives rise to an obligation to work collaboratively with others when:

- **Different services are being provided to different members of the same family unit or extended family network.** NB it is not necessary for family members to be part of the same household to be considered as part of the same family unit. For example collaboration would be required in a case where a father was in receipt of mental health services and had contact with but was not living with a child in receipt of learning disability services.

Where such situations exist then some level of collaborative working must take place. However, the nature and extent of such work will be dependent upon:

- Individual circumstances of the service user
- The nature of the services being provided and the type of provider
- The legal and procedural context in which services are being provided
- Local initiatives and agreements
- Service specific inter-agency agreements

Such working may include:

- Joint assessment (including risk assessment)
- Joint planning and review
- Joint service provision/funding
- Co-working

It **must** include:

- Robust mechanisms for the timely and efficient exchange of information
- The routine and timely sharing of risk management plans
- Routine and sustained communication including processes for the notification of significant events including but not limited to case transfer, withdrawal of or from the service and case closure.

## What and when to share

You can share information for the purpose of safeguarding **without consent** under the 'safeguarding individuals at risk exemption' in the Data Protection Act 2018 Schedule 8 section 4. The exemption applies to children, and to adults aged 18 and over experiencing or at risk of abuse and neglect, who have needs for care and support, and who cannot protect themselves. This is when the safeguarding duty applies in the Care Act 2014.

This includes all organisations including housing providers and charities. Organisations across County Durham are committed to delivering early intervention in safeguarding, which relies on effective, early, information sharing to prevent matters escalating.

In safeguarding, the ability to share information without consent, in the public interest, centres on two factors:

- Whether there is **evidence or reasonable cause to believe** that someone is experiencing, **or is at risk of experiencing**, neglect, or physical, mental, or emotional harm

And / or

- To prevent harm to someone, including through the prevention, detection, and prosecution of serious crime.

And it is necessary for one of these reasons:

- In the circumstances, consent to the processing cannot be given by the person;
- In the circumstances, consent cannot reasonably be expected to be obtained;
- Obtaining the consent of the person would prejudice providing protection.

DPA Schedule 8 section 4

<https://www.legislation.gov.uk/ukpga/2018/12/schedule/8/crossheading/safeguarding-of-children-and-of-individuals-at-risk>



**Practice Point:** Having a reasonable cause to believe that information sharing is necessary to prevent a child or adult from experiencing neglect, or physical, mental, or emotional harm in the future is equally important.

Adults can experience or be at risk of harm through physical, emotional, or sexual abuse or neglect. This can occur through exploitative, or coercive and controlling relationships. It is a case-by-case basis, and as examples, can have links to situations of domestic abuse or when a family member has a caring role.

The sharing of information under these circumstances is proportionate and necessary to protect adults and to prevent harm.

### Lawful basis to share information (process data)



**Practice Point:** It is likely vital interest, public function or legitimate interest will apply as your lawful basis for sharing in most cases for safeguarding, rather than consent. If you are going to share the information regardless of consent, then do not use consent as your lawful basis, as you cannot later change from consent as your lawful basis to another if consent is refused.

“Take care to get it right first time - you should not swap to a different lawful basis at a later date without good reason. In particular, you cannot usually swap from consent to a different basis”. ICO

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

The purpose of sharing concerns is:

- protecting an individual from neglect or physical, mental, or emotional harm, or
- protecting the physical, mental, or emotional well-being of an individual.

And your lawful basis to share information will, as appropriate, be one of:

- Vital interest: necessary to protect someone's life, emergency treatment
- Public task: necessary in public interest or for your lawful public function
- Legitimate interest: necessary to protect someone's legitimate interests [e.g. for a non-public body to protect an individual from abuse and neglect].

Some examples of when sharing without consent may occur:

- There is a risk of harm to an adult with needs for care and support.
- There is a risk of harm to others.
- The person alleged to have caused the harm is a staff member, professional or volunteer of a partner organisation.
- The adult lacks mental capacity to make an informed decision about their situation (this must make proper use of the Mental Capacity Act 2005).
- The risk is of a nature where other multi-agency arrangements may apply for example, the Prevent duty, MARAC, or MAPPA.
- It is necessary for the detection and prevention of crime.



**Practice Point:** The Human Rights Act 1998 and Article 8 of the European Convention for the Protection of Human Rights and Fundamental freedoms (aka European Convention on Human Rights) should be considered in tandem to the above before any disclosures are made to another organisation. Remember the legal basis and Caldicott Principles.

## What if the adult refuses a needs assessment?

**Care Act 2014 section 11** Adults who have capacity to refuse, and who are not at risk of or experiencing abuse or neglect are entitled to refuse a needs assessment. But if the adult:

- does not have capacity to refuse a needs assessment and it is in their Best Interests (as determined by use of the Mental Capacity Act 2005)

or

- is at risk of or experiencing abuse and neglect

the local authority duty to carry out a needs assessment remains; the need for consent is explicitly ruled out under section 11.

“Section 11 Care Act (2014) sets out circumstances where, even in the face of a refusal of assessment by the adult, there is a continuing duty under S9 Care Act (2014).

- This enables practitioners to pro-actively work together to understand a person's care and support needs and how this might impact on their ability to protect themselves.
- This is potentially helpful if a person is experiencing or at risk of abuse or neglect but refuses a needs assessment.

- The individual should be kept informed and as involved as possible.
- This ability to carry out a S9 assessment (which the person cannot decline where S11(2)(b) applies) may support a ‘way in’ for offering support and for identifying need and risk alongside the person”.

[Understanding what constitutes a safeguarding concern: FAQs | Local Government Association](#)

## Can we do safeguarding if the adult does not have eligible needs for care and support?



**Practice Point: The Care Act 2014 Section 42 explanatory notes say** “The eligibility criteria that the local authority sets for services and support are not relevant in relation to safeguarding. Safeguarding enquiries should be made on the understanding of the risk of neglect or abuse, irrespective of whether the individual would meet the criteria for the provision of services”.

<https://www.legislation.gov.uk/ukpga/2014/23/notes/division/5/1/10/1>

“However, the level of needs is not relevant, and the young adult does not need to have eligible needs for care and support under the Care Act 2014 or be receiving any particular service from the local authority, in order for the safeguarding duties to apply – so long as the conditions set out in paragraph 14.2 are met.”

Care and Support Statutory Guidance para 14.5

“Howard is someone who misuses substances or alcohol to the extent that it affects his ability to manage day-to-day living”.

Howard, a useful case study on page 11 of

[Understanding what constitutes a safeguarding concern and how to support effective outcomes \(local.gov.uk\)](#)

It is also within the power of the local authority to make a safeguarding enquiry where there is no s42 duty.

“Local authorities may choose to undertake safeguarding enquiries for people where there is not a section 42 enquiry duty, if the local authority believes it is proportionate to do so, and will enable the local authority to promote the person’s wellbeing and support a preventative agenda”.

Care and Support Statutory Guidance para 14.44

## What does this mean for agencies and practitioners?

### Roles and responsibilities of line managers

Effective and safe inter-agency working is dependent on appropriate systems being in place for management oversight and case supervision.

As managers you should:

- Ensure you have a good working knowledge of the lawful basis for sharing information and that it is relevant and accurate.

- Keep your knowledge of internal guidance and joint working arrangements up to date.
- Ensure you know where to seek advice and guidance relating to information sharing and joint working.
- Be clear about your own organisation and any relevant professional codes of conduct regarding your duty of care towards those in need of services to promote their welfare and maintain their safety.
- Be clear that the need to protect the safety and welfare of others (including those employed by your own and other agencies) always is paramount over any perceived right of confidentiality of the service user.
- Ensure you are aware of any internal guidance in relation to practitioners where information is shared/not shared appropriately.
- Report any salient issues arising from the collaborative process to the relevant management structure.
- Ensure any decisions made during collaborative working continuously reflect best practice and are consistently in the best interests of the service user.
- Ensure you adhere to standards related to recording, communication and timescales including recording how you have judged it to be a lawful basis and which condition is used for sharing information.
- Ensure your processes and relevant forms include a test, identifying and documenting your legitimate grounds, for each occasion (Schedule 1 Part 4 of the Data Protection Act 1998).

## **Roles and responsibilities of practitioners**

The potential benefits to service users and their families of agencies working collaboratively will only be maximised if practitioners contribute fully, cohesively, and effectively to that process.

ALL practitioners should familiarise themselves with internal safeguarding and information sharing guidance. This toolkit serves as a guide to practice only.

## **Useful prompts**

All partners of Durham Safeguarding Adults Partnership are committed to maintaining good standards with respect to the safe handling, transfer, retention, storage, and destruction of information in line with legislation and their own internal guidance.

### **Safe transfer of personal or sensitive information prompts**

- Only share information to secure or encrypted email addresses.
- Seek agreement for any alternative arrangements where secure email is not available and always follow guidance from your Data Controller if in any doubt for the safe transfer of information.
- Always follow your organisation guidance for telephone calls, postal records and or faxes e.g. confirming recipients and contact details.

### **Safe information sharing in multi-agency meetings**

- When you access an adult's file notes or record to refresh your memory before the meeting, or use them to disclose during the meeting, that is data processing.

- Ensure multi agency meetings have confidentiality agreements / processes.
- Record your lawful basis for sharing information in line with your organisation's policy and procedures.

### Safe retention and destruction of personal or sensitive information prompts

- Always refer to your own organisation policy and procedures for the retention and destruction of data in line with government standards.
- Always follow guidance for the safe disposal of records in line with those policies and keep for no longer than is necessary.

### Access and security prompts

- Refer to your own organisation guidance and appropriate organisational and technical measures:
  - to prevent unauthorised or unlawful processing of personal data; and
  - against accidental loss or destruction of, or damage to, personal data (including promoting confidentiality to prevent unauthorised access).
- Refer to your own organisation guidance to prevent accidental damage during the storage, handling, use, processing, transmission, or transport (including deterring of opportunist attacks or compromise).
- ALWAYS follow your organisation guidance in relation to data breaches and should a breach occur ensure it is reported to the relevant officer/Data Controller (in line with your internal policy).



**Practice Point:** All practitioners, staff and volunteers hold a responsibility for ensuring they are familiar with their own organisation's guidelines.

## Individual rights (Data subjects)



**Practice Point:** The [UK GDPR](#) sets out the [rights of individuals](#). You can find out more at the Information Commissioner's Office (ICO) website. [Information Commissioner's Office \(ICO\)](#)

**Information about individual rights may also be available in your own organisation's privacy notices or statements.**

### All individuals have a right to request access to any personal data held about them.

- More commonly known as a Subject Access Request or SAR.
- Anyone can make a request verbally or in writing.
- You can find out more from your organisation's Data Controller or Information Governance Lead.

## Constructive professional challenge

Collaborative working often involves good inter-agency work and timely information sharing. Where professionals, practitioners, or volunteers have a concern about a decision made by another organisation / team, that concern should be followed up with robust professional challenge.

Professional challenge is a sign of good professional practice and responsibility. All agencies and services should promote a culture which encourages constructive challenge within and between organisations, welcomes different professional perspectives, and acknowledges the important role that challenge can play in safeguarding adults.

If you have an unresolved concern about collaboration, consider raising it through line management, or the other organisation's own safeguarding adults policy and procedures.

### Managing Professional Differences

Safeguarding Adult Reviews (SARs) continue to draw attention to the importance of inter-agency communication, and some have identified an apparent reluctance to challenge inter-agency decision-making, when concerns were not followed up with robust professional challenge, which may have altered the professional response and the outcome for the adult at risk.

Organisations, professionals, practitioners, and volunteers can raise professional differences through the DSAP Managing Professional Differences procedure which outlines a four-step escalation process when differences may arise within the safeguarding adults arena.

It is helpful to provide information to practitioners and agencies of what to do when there are barriers to sharing information or where it is felt collaborative working is not effective.



**Practice Point:** All practitioners, agencies or organisations can escalate situations when they feel that they are not receiving a satisfactory response to requests for collaborative working in respect of an adult at risk of abuse or neglect, or there are professional disagreements and challenge has not resolved the matter.

Every attempt should be made to resolve issues at a local, operational level. However, where every attempt has been made to resolve matters informally via discussions, meetings, and through formal requests, any organisation can use the Managing Professional Differences procedure.

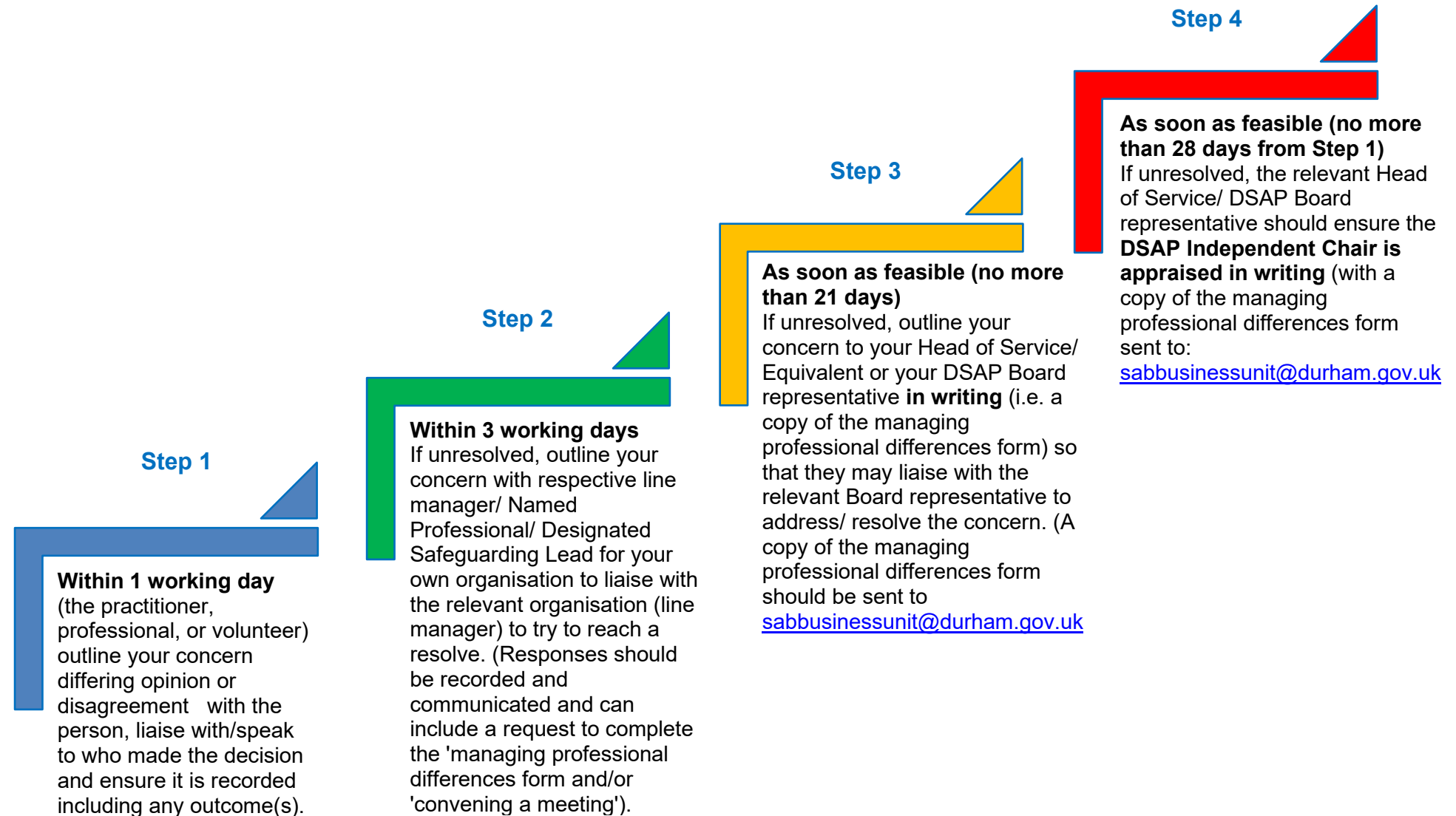
In some circumstances and following escalation, if it is felt there is a reluctance to share information, the relevant organisation may be requested to 'supply information' under Section 45 of the Care Act 2014.

For advice or support email: [sabbusinessunit@durham.gov.uk](mailto:sabbusinessunit@durham.gov.uk)

or call 03000 268870/268871

# Appendix 1 - Managing Professional Differences – Steps 1 to 4

Please also refer to the full document [Managing Professional Differences](#)





## Appendix 2 - Useful case studies to support practitioners

ADULT SAFEGUARDING – The case examples below are taken from [Social Care Institute for Excellence, SCIE \(2019\) Safeguarding Adults – Sharing Information](#) and can be used as a guide to support staff, professionals and volunteers.

### Case study - Tammy

Tammy has mental health problems. She visits the GP for a routine check on her medication. While there, she mentions that her partner is violent towards her. The GP expresses concern, and Tammy says that it's nothing to worry about and in any case it's no wonder he hits her as she's very annoying. The GP says that she probably isn't and even if she is, that doesn't mean she deserves to be hit. Tammy says she doesn't want to talk about it anymore and doesn't want the GP to tell anyone.

The GP is mindful of his duty of confidentiality to the patient<sup>1</sup>. He knows that Tammy has no children, and he does not think that she lacks the capacity to make decisions about living with her partner. He decides that it is her right to make the decision to not tell anyone about the violence, but he does make a note on her file about what she has said.

The next time Tammy comes to the surgery she sees a different doctor. This GP has not seen the note on Tammy's file about the disclosure. Tammy has a bruise on her face; she says she fell over and that her jaw is very painful. The GP sends her to the hospital for an X-ray and it turns out she has a broken jaw. She has treatment from the hospital. The hospital staff do not question Tammy's account of the cause of her injury.

A few weeks later Tammy calls the police. Her partner has cut her arm open with a knife and is threatening to kill her.



**Practice Point:** When deciding whether to share information against someone's wishes:

- consider whether they have the mental capacity to make the decision and can fully understand the possible consequences
- establish whether coercion or duress is involved – this may warrant sharing information without consent
- enquire about the frequency and seriousness of the abuse
- use gentle persuasion, explain what help and/or protection might be available
- talk to other safeguarding partners without disclosing identity in the first instance
- make enquiries to establish whether the alleged perpetrator has care and support needs or is a carer
- follow up on discussion or disclosures.

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<sup>1</sup> [General Medical Council – Adult Safeguarding Guidance](#)

## Case study - prevention

The police have received a report from Age UK that a number of local older people have paid a lot of money up-front for repair work on their houses but that after a couple of days the workers have not returned to finish the job and cannot be contacted. Age UK has notified Trading Standards.

The police representative and the designated adult safeguarding manager on the safeguarding adults board are contacted and asked to share this information with safeguarding partners. Adult social services decide to try and alert older people with care and support needs about this danger by:

- alerting all services for older people
- putting a warning on the council website
- making a phone call to all the older people they know to be isolated in the community and who are not receiving any services
- writing an article for the local press to warn people about this threat, explaining how to avoid rogue traders and who to contact if they are concerned.

Following this, one older person who became suspicious was able to give the police the registration number of a van possibly related to the rogue traders.



- Sharing information locally about known threats can prevent further abuse.
- Empowering people with information and advice can help people to protect themselves.
- Joint working can raise awareness of current threats.